IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9169 OF 2003

Vaidya Ashok Ramchandra Deshmukh .... Petitioner

versus

State of Maharashtra and ors. ... Respondents.

Shri N.V.Bandiwadekar for the petitioner.

Shri S.R.Nargolkar for Respondent

CORAM; V.G. PALSHIKAR Acg.C.J.&
V.M. KANADE, J.

DATED; 8TH AUGUST, 2006.

P.C:

1. By this petition, the petitioner has challenged the order dated 12-11-2003 issued by respondent no.3 by which petitioner's registration as medical practitioner was cancelled.

2. The petitioner was prosecuted by Mumbai police under section 120 B read with sections 419, 420, 465, 466, 467, 471, 474 of IPC and sections 33 and 36 of the Maharashtra Medical Practitioner's Act 1961. As a consequent of his arrest and prosecution, the impugned order dated 12-11-2003 was passed cancelling the registration of the petitioner and directing removal of his name from the register of medical practitioner.

This action is impugned in this petition basically on the ground that it violates the basic principles of natural justice.

3. Factually, it is not disputed that this order was passed without holding enquiry of any kind as required by section 20 of the Medical Practitioner's Act 1961. In the face of this statutory provision, which permits striking of the name or withdrawal of the recognition only after due enquiry, and any action taken without such due process is unsustainable in law.

4. In the result, the petition succeeds and is allowed. The order dated 12-11-2003 is set aside. It is however made clear that the respondent will be at liberty to act according to section 20 and principles of natural justice, to take any action against the petitioner. The petition, accordingly disposed of.

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